IN THE HIGH COURT OF BOMBAY AT GOA
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FIRST APPEAL NO. 38 OF 1998

1. State of Goa through
the Dy. Collector (DEV)
& LAO, Panaji, Goa,
403 001,

2. The Chief Town Planner,
Town & Country Planning
Dept., Government of
Goa, Panaji, Goa,
403 001. ... Appellants.

Versus

Shri Abel Lopes,
r/o Borchem Bhat,
Caranzalem, Ilhas,
Goa. ... Respondent.

Shri P. A. Kamat, Government Advocate for the appellants.

CORAM: S. A. BOBDE, J.

DATE : 16th July, 2004.

ORAL JUDGMENT

This First Appeal by the State is against the Award of the Reference Court dated 26th August, 1996, by which that Court has increased the rate of compensation awarded by the Land Acquisition Officer from Rs.75/- per sq. mt. to Rs.103/- per sq. mt. Within the Panaji municipal area, Tiswadi, under P.T. Sheet No.159 Chalta No. 116, 71 sq. mts. of land belonging to the respondent were acquired. The land was agricultural land and is said to lie about 1 mt. below the road level.

2. On 17th February, 1987, the Land Acquisition Officer offered a price of Rs.75/- per sq. mt. Dissatisfied,

the respondent sought a reference. That reference was made by the Government to the District Court, North Goa, Panaji. The respondent claimed enhancement of the rate to Rs.300/- per sq. mt.

3. Before the Reference Court, the respondent examined himself four other persons who were purchasers of lands which, according to the respondent, were comparable sale instances. These witnesses produced the various agreements to sell or sale deeds. However, I propose to restrict the consideration only to the sale instance at Exh.A.W.5/A, which was produced by Carmina Fernandes, A.W.5, who sold her land at the rate of Rs.200/- per sq. mt. The land sold by her is about 1 km. from the acquired land. The reference court has also considered the matter with reference to this sale deed.

4. Having regard to the fact that one year had passed between the time when the said Carmina sold her plot of land for Rs.200/- per sq. mt. and the Section 4 Notification, the Court added 10% to the price, thus making it Rs.220/- per sq. mt. Thereafter, the Court had deducted 53 1/3% thus reducing the rate of Rs.220/- by Rs.117/- and arrived at the rate of Rs.103/- per sq. mt. Shri Kamat, learned Government Advocate primarily urged that the increase in 10% from the sale instance, i.e. A.W.5/A is unjustified, since according to the learned counsel there is no evidence on record led by the claimant to show that there was increase in land price. This

argument cannot be accepted in view of the fact that it is settled law that a general increase in land price should be taken into account at the rate of 10% per year. There is no reason to depart from that in the present case.

5. The learned Government Advocate however, relied on the decision reported in (1994)6 SCC 64, in the case of **Mehtab Singh & Ors. vs. State of Haryana**, in which the Supreme Court took the view that it would not be justified to adopt a 12% increase in each and every acquisition. That case however, was very different. That was a case in which the Award was made "within a matter of days from the date of notification". It is in that context that Their Lordships said that there was no occasion to take judicial notice of inflation and the high rise of prices. Here, a full year has passed. That decision does not call for application in the present case. As regards the other deduction of 53 1/3% which has resulted in a reduction of the rate of compensation by Rs.117/-, it is clear that the same is justified and also made appropriately. 33 1/3% has been made because the acquired land is undeveloped, 10% because the acquired land had no access, and another 10% because the suit plot is a bund having a width of about 2.5mts.

6. In this view of the matter, I see no merit in the Appeal, which is hereby dismissed.

S.A. BOBDE, J.